IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 24603 of 2004

Between:

Hindu College High School, Machilipatnam,
Krishna District, rep by Correspondent
Sri. D.R. Shastry.

..... PETITIONER

AND

1 State of Andhra Pradesh, rep by Secretary,
School Education, Secretariat Buildings, Hyderabad.
2 Commissioner & Director of School Education A.P. Saifabad
Hyderabad.
3 The regional Joint Director of School Education,
at Kakinada
4 The District Educational Officer, Krishna District at
Machilipatnam.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ more in the nature of Writ of Mandamus declaring the action of the respondents in seeking to stop the process of selection and recruitment to the aided posts in the petitioner institution purporting to act upon the Government Memo No. 12080/Cose./A-2/2004-4 Edn(cose), Department, dated
20-10-2004 despite the permission was granted for the process of selection in terms of the proceedings of the Deputy Educational Officer, Machilipatnam nominee of the District Educational Officer in Rc. No. 92/03 dt 5-10-2003 as being arbitrary and illegal, violative of Article 14 of the Constitution of India and issue consequential direction tot he respondents to permit the petitioner management to go ahead with the process of selection/recruitment to the aided posts in the petitioner institution and release grant in favour of the recruitees.

Counsel for the Petitioner:MR.CH.SAMSON BABU

Counsel for the Respondent Nos.1 to 4: GP FOR SCHOOL EDUCATION

The Court at the stage of admission made the following :

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ORDER:

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The petitioner seeks a writ of mandamus declaring the action of the respondents in seeking to stop the process of selection and recruitment to the aided posts in the petitioner Institution despite the permission granted by the authorities as illegal and arbitrary.

It is stated that the petitioner institution was established in the year 1891 and that the same was recognized by the then Director of Public Instructions, Madras. It is stated that certain vacancies arose in the petitioner institution due to the retirement of some of the teaching and non-teaching staff and having informed the same to the respondents, the petitioner in terms of the provisions of G.O.Ms.No.1, dated 1-1-1994 issued an advertisement inviting applications from the eligible candidates to fill up the said vacant posts. The petitioner has also notified in the employment exchange. It is further stated that the Deputy Educational Officer having visited the institution by report dated 5-10-2004 informed the District Educational Officer, Krishna District, Machilipatnam that the petitioner has notified the vacancies following due process and accordingly recommended for filling up the said vacant posts. The Deputy Educational Officer has also requested to send the subject expert list to the petitioner management for conducting written / oral test as per the norms prescribed in G.O.Ms.No.1, dated 1-1-1994 and to intimate the same to him for fixing the date of interview so as to fill up the vacant aided posts in the petitioner institution. The grievance of the petitioner is that the fourth respondent instead of sending the list of subject experts and fixing up the date for conducting interviews has informed the petitioner that in view of the general ban on recruitment, the petitioner cannot go ahead with the process of selection. The said action of the respondents is under challenge in this writ petition.

Heard learned counsel for the petitioner and the learned Government Pleader for School Education appearing for the respondents.

Learned counsel for the petitioner primarily contended that the general ban imposed by the Government under Memo, dated

20.10.2004 cannot be made applicable to the case on hand since the vacancies arose long back and the Deputy Educational Officer who is the nominee of the District Educational Officer has already recommended for filling up the said posts on 5-10-2004 itself. The learned counsel in support of his contention has relied upon a decision of this Court in W.P.No.22188 of 2004 wherein this Court has dealt with an identical issue. This Court, having considered the scope of Memo dated 20.10.2004, held that in the Memo dated 20.10.2004 though it is stated that no new posts of grant in aid would be created and the existing vacancies will also not be filled up, in the very same Memo it is stated that the general ban is not applicable for the posts for which permission was specifically granted by the Government and accordingly permitted the petitioner therein to proceed with the selection process notwithstanding the ban imposed under the Memo dated 20.10.2004.

On a perusal of the said order, I am of the view that the ratio laid down in the said decision squarely applies to the case on hand, since admittedly in the case on hand selection process has already been commenced for filling up of the vacancies in question much prior to the general ban imposed under the Memo dated 20-10-2004.

Accordingly, the writ petition is disposed of with a direction to the respondents to consider the request of the petitioner-Institution to permit it to take further steps to fill up the vacancies in question notwithstanding the ban imposed under the Memo dated 20.10.2004. No costs.

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17.02.2005

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To

1 State of Andhra Pradesh, rep by Secretary,
School Education, Secretariat Buildings, Hyderabad.
2 Commissioner & Director of School Education A.P. Saifabad
Hyderabad.
3 The regional Joint Director of School Education,
at Kakinada
4 The District Educational Officer, Krishna District at
Machilipatnam.

5 Two C.Cs to the G.P. for School Education, High Court
Buildings, Hyderabad (OUT).

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the competent authority has accorded necessary permission to it to fill up the posts much prior to the ban imposed under the Memo, dated 20.10.2004.